

(P)

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

CAMP AT NAGPUR

~~Case No.~~

T. A. No. 312/87

198

DATE OF DECISION 13.11.1991

Mahadeo R. Prachand

Petitioner

Mr. S.D. Deshpande

Advocate for the Petitioner(s)

Versus

Divisional Personnel Officer, SE Railway, Nagpur. Respondent

Mr. P.N. Chandurkar

Advocate for the Respondent(s)

## CORAM

The Hon'ble Mr. Justice U.C. Srivastava, V/C

The Hon'ble Mr. M.Y. Priolkar, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

  
( U.C. Srivastava )  
V/C

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
 BOMBAY BENCH, BOMBAY  
 CAMP AT NAGPUR  
 \* \* \* \* \*

Tr.A.No.312/87

Mahadeo Raghobaji Prachand,  
 Senior Typist,  
 Office of Divisional Mechanical  
 Engineer, South Eastern Railway,  
 Nagpur.

... Applicant

V/s

1. Divisional Personnel Officer,  
 South Eastern Railway,  
 Nagpur.

2. Divisional Railway Manager,  
 South Eastern Railway,  
 Nagpur.

3. Kum. Shanta Damaji Aade,  
 Senior Typist, Office of  
 the Divisional Personnel  
 Officer, South Eastern Railway,  
 Nagpur.

... Respondents

CORAM : Hon'ble Vice-Chairman, Shri Justice U.C.Srivastava  
 Hon'ble Member (A), Shri M.Y.Priolkar

Appearances:

Mr. S.D.Deshpande, Advocate  
 for the applicant and  
 Mr. P.N.Chandurkar, Advocate  
 for the respondents.

ORAL JUDGEMENT:

Dated : 13.11.1991

(Per. U.C.Srivastava, Vice-Chairman)

This is a transferred case under Section 29 of the Administrative Tribunals Act, 1985. The applicant who is working as a Senior Typist in the South Eastern Railway entered the Department in the reserved quota of Scheduled Tribe on the ground that he belonged to Halba Caste and is a member of Scheduled Tribe. It appears that the employment was given to him on the basis of the certificate issued by one sitting M.L.S. whereafter which was followed by a certificate issued by the Taluka Magistrate. It appears that there was no contest at

that stage. The present dispute has arisen when the question of promotion to the higher post of Head Typist arose. The applicant, although in the seniority list, is above the respondent No.3 but the Respondent No.3 was promoted as Head Typist in preference to the applicant on the ground that she is a Member of Scheduled Tribe and the post is meant for the member of Scheduled Tribe. Respondent No.3 is admittedly a member of Gond Tribe which under the Scheduled Tribe order is shown as Scheduled Tribe. The plea on behalf of the applicant is that in the seniority list the applicant is much above the Respondent No.3 and he is a member of ST but he has been wrongly passed over in preference to Respondent No.3. The respondent No.3 was appointed on the said post in the year 1980 and was regularised in the year 1981 and also she was confirmed as Head Typist in the year 1982. But it appears that the dispute was going on and ultimately the dispute landed before this Tribunal. On behalf of the applicant it was contended that the applicant belongs to Halba Koshti and the Halba Koshti is a Scheduled Tribe and this Tribe has been recognised as such and that is why the applicant also entered the employment and the certificate in this behalf was issued. That may be so but when the question of promotion arose a dispute arose between the applicant and Respondent No.3. The dispute was taken before the District Magistrate who has got authority in the matter. However, the District Magistrate after making an inquiry through Sub-Divisional Magistrate and after considering relevant facts came to the conclusion that the applicant is not a member of Scheduled Tribe. No appeal was filed by the applicant against the order passed by the

District Magistrate which is admittedly to the Commissioner. The presumption which in the favour of the applicant on the basis of the certificate which was initially granted stood remitted after the order passed by the District Magistrate which is on the record. In view of the fact that the District Magistrate's order has attained finality as the applicant has not challenged the same, for the purpose of this case it cannot be now accepted that the applicant is a member of Scheduled Tribe and he has been wrongly deprived of the promotion in preference over the respondent No.3 who got this post even though junior to the applicant on the ground of being a member of ST. In view of the finding of the District Magistrate we do not find any ground to interfere in the promotion of the Respondent No.3. However, we make it clear that there appears to be no reason why on the basis of seniority the applicant will not be promoted to the said post as and when his turn comes. With these observations the application stands disposed of finally. There will be no order as to costs.



( M.Y. Prabolkar )  
Member (A)



( U.C. Srivastava )  
Vice-Chairman